

REMARKS

I. Formal Matters.

Claims 1-17 are all the claims pending in the application. Applicant thanks the Examiner for considering the references cited via the Information Disclosure Statements (IDS) filed on April 11, 2002, October 6, 2004, and July 22, 2005, respectively, as evidenced by his return of an initialled PTO-1449 Forms to the office of the undersigned.

II. Claims.

Claims 1-3, 5, 7-9, and 11-17 are rejected under 35 U.S.C. §102(e) as being allegedly anticipated by *Lohr et al.* (U.S. Patent App. Publication No. 2002/0112063).

When a prior U.S. patent application publication is not a statutory bar, a 35 U.S.C. 102(b) rejection can be overcome by antedating the filing date of the reference by submitting an affidavit or declaration under 37 CFR 1.131 (MPEP §706.02(b)(D) and §2136.03). *Lohr* was published (August 15, 2002) less than one year prior to the U.S. filing date of the present application (February 15, 2002), thus *Lohr* is not a statutory bar to patentability under 35 U.S.C. § 102(b) but qualifies as potential prior art under 35 U.S.C. § 102(e). By perfecting claim to priority, the date of invention becomes the filing date (February 16, 2001) of the foreign Applicant's priority document, JP 2001-039884. *Lohr*'s prior art date under 35 U.S.C. § 102(e) is its U.S. filing date of February 14, 2001.

Submitted with this amendment is an English translation of Applicant's priority document, JP 2001-039884 and a signed statement attesting to the accuracy of said translation. Applicants hereby perfect claim to priority and wish to rely on said perfection with respect to the

applied prior art of *Lohr*. By perfecting claim to priority, Applicant's date of invention becomes February 16, 2001, just two days after *Lohr*'s prior art date under 35 U.S.C. § 102(e).

In addition a Declaration under 37 C.F.R. §1.131 is attached. The inventors, declare that the invention of the subject application was conceived before February 14, 2001 as evidenced by the attached (1) Written Report of Service Invention with the Idea Proposal [Exhibit 1] and (2) Application Order (Request for another Japanese law firm to prepare Japanese Application for the invention described in (1)) [Exhibit 2]. Further with due diligence the invention was constructively reduced to practice on February 16, 2001 by filing Japanese Patent Application No. JP2001-039884, from which the subject application claims foreign priority.

Due diligence from just before February 14, 2001 to filing of the priority document on February 16, 2001 is evidenced by (3) Draft Japanese Application prepared by a Japanese law firm, dated February 14, 2001 [Exhibit 3], which was finalized and filed on February 16, 2001 as the priority document (JP2001-039884) of the subject application. By the attached declaration and evidence, the inventors swear to a date of invention prior to February 14, 2001. Therein, *Lohr* is removed as a prior art reference under 35 U.S.C. § 102(e) and the rejection of claims 1-3, 5, 7-9, and 11-17 fails.

Claims 4, 6, and 10 are rejected as being unpatentable over *Lohr* in view of *Smith* (U.S. Patent No. 6,532,543) under 35 U.S.C. §103(a).

By removal of *Lohr* as a prior art reference under 35 U.S.C. §102(e), the rejection of claims 4, 6, and 10 as being unpatentable over *Lohr* in view of *Smith* (U.S. Patent No. 6,532,543) under 35 U.S.C. §103(a) also fails.

AMENDMENT UNDER 37 C.F.R. §1.111
APPLN. NO. 10/075,395

DOCKET NO. Q68512
GROUP ART NO. 2157

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


Amelia F. Morani, Ph.D.
Registration No. 52,049

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: February 6, 2006